misdemeanors. It doesn't matter whether the misdemeanors involve minor offenses—three misdemeanors and you are out, no matter how minor the misdemeanors. In addition, anyone convicted of a single misdemeanor who served a sentence of 6 months or more would also be ineligible. These rules are additional requirements that do not apply to other immigrants and they cannot be waived by DHS.

There are those who would prefer to disqualify a farm worker who commits even a single minor misdemeanor, with no jail time. But that goes too far. In some States, it's a misdemeanor to put trash from your home into a roadside trash can. It's a misdemeanor to park a house trailer in a roadside park, or have an unleashed dog in your car on a State highway, or go fishing without a license.

If we're serious about this proposal, minor offenses like these shouldn't have such harsh consequences. We'd be severely punishing hard-working men and women for minor mistakes, and tearing these immigrant families apart.

It's hard to imagine any public purpose that would be served by such a severe punishment. But it's easy to imagine all the heart-wrenching stories and nightmares created by this proposal for people caught by its provisions. Many of these farm workers have lived in America with their families for many years. They've established strong ties to their communities, paid their taxes, and contributed to our economy. They deserve better than a punishment out of all proportion to their offense.

Opponents of AgJOBS also claim that it will be a magnet for further illegal immigration. Once again, they are wrong. To be eligible for the earned adjustment program, farm workers must establish that they worked in agriculture in the past. Farm workers must have entered the United States prior to October, 2004. Otherwise, they are not eligible. The magnet argument is false. New entrants who have not worked in agriculture won't qualify for this program.

Hard-working migrant farm workers are essential to the success of American agriculture. We need an honest agriculture policy that recognizes the contributions of these men and women, and respects and rewards their work.

Our bill will modify the current temporary foreign agricultural worker program, while preserving and enhancing key labor protections. It strikes a fair balance. Anything else would undermine the jobs, wages, and working conditions of U.S. workers.

For many employers, the current program is a bureaucratic nightmare. Few of them use the program, because it is so complicated, lengthy, uncertain, and expensive. Only 40,000–50,000 guest workers are admitted each year—barely 2 to 3 percent of the estimated total agricultural work force.

To deal with these problems, the bill streamlines the H–2A program's application process by making it a ''labor attestation'' program similar to the H–1B program, rather than the current ''labor certification'' program. This change will reduce paperwork for employers and accelerate processing.

Employers seeking temporary workers will file an application with the Secretary of Labor containing assurances that they will comply with the program's obligations. The application will be accompanied by a job offer that the local job service office will post on an electronic job registry at least 28 days before the job begins. In addition, the employer must post the position at the work site, notify the collective bargaining representative if one exists, make reasonable efforts to contact past employees, and advertise the position in newspapers read by farm workers.

Longstanding worker protections will continue in force. For example, the ''three-fourths minimum work guarantee'' will remain in effect. Employers will be required to guarantee work for at least three quarters of the employment period or pay compensation for any shortfall. The ''50% rule'' will also continue. Qualified U.S. workers would be hired as long as they apply during the first half of the season. No position could be filled by an H–2A worker that was vacant because of a strike or labor dispute. Employers will continue to reimburse workers for transportation costs and provide workers' compensation insurance coverage. Employers will be prohibited from discriminating in favor of temporary workers.

The bill will modify some current requirements in important ways. Employers must provide housing at no cost, or a monetary housing allowance in which the State governor certifies that sufficient farm worker housing is available. Employers will also be required to pay at least the highest of the State or Federal minimum wage, the local ''prevailing wage'' for the particular job, or an ''adverse effect'' wage rate.

For many years, the adverse effect wage rate has been vigorously debated, with most farm worker advocates arguing that the rate is too low, and most growers complaining that it is too high. The bill will freeze adverse effect wage rates for three years at the 2003 level, while studies and recommendations are made to Congress by the GAO and a special commission of experts. If Congress fails to enact an adverse effect wage rate formula within 3 years, this wage rate will be adjusted in 2006, and at the beginning of each year thereafter, based on the change in the consumer price index.

The Secretary of Labor will establish an administrative complaint process to investigate and resolve complaints alleging violations under the H–2A program. Violators will be required to pay back wages, and can also be given civil money penalties and be barred from the program.

In addition, the bill provides a significant new protection for H–2A workers—a private right of action in Federal court. Currently, these workers lack this right, and can seek redress in State courts only under State contract law. Such workers are also excluded from the Migrant and Seasonal Agricultural Worker Protection Act, which provides U.S. workers with protections and remedies in Federal court. Although the exclusion continues, our bill will permit workers to file a Federal lawsuit to enforce their wages, housing benefits, transportation cost reimbursements, minimum-work guarantee, motor vehicle safety protections, and other terms under their job offer.

Our bill will also unify families. When temporary residence is granted, a farm worker's spouse and minor children will be able to remain legally in the United States, but they will not be authorized to work. When the worker becomes a permanent resident, the spouse and minor children will also gain such status.

Mr. President, I have a letter from the AFL–CIO that calls AgJOBS a recent legislative compromise between farmworker advocates and agricultural employers. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, April 18, 2005.

DEAR SENATOR: On behalf of the AFL–CIO I urge you to support cloture on and passage of an amendment to the FY 2005 Supplemental Appropriations bill offered by Senators Craig and Kennedy—the Agricultural Job Opportunity, Benefits and Security Act (AgJOBS). I also strongly urge you to oppose an amendment offered by Senators Chambliss and Kyl as a substitute to AgJOBS. This amendment has inadequate worker protections and must be defeated.

The AgJOBS bill is a reasoned legislative compromise between farm worker advocates and agricultural employers. AgJOBS enjoys strong bipartisan support and would provide an avenue for 500,000 undocumented farm workers to qualify for an earned adjustment program that has a path to permanent residency. AgJOBS would both streamline the current H–2A agricultural guest-worker program and provide additional legal protections for migrant workers who hold H–2A visas. AgJOBS addresses both the growing concern over the high number of undocumented farm workers and the need for adjustments to the H–2A program so that we do not confront a similar crisis in the future. The Kennedy-Craig AgJOBS amendment is necessary immigration reform that will protect the rights and economic well-being of both immigrant and U.S. workers.

The Chambliss-Kyl proposal would radically change the H–2A program—stripping it of all labor protections and government oversight. This amendment would create a new year-round guest worker program with no meaningful labor protections and no role for the Department of Labor to enforce housing, pay, or other essential worker protections. The Chambliss-Kyl proposal would tie workers to particular employers and require